

## Message Text

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43

ACTION PER-05

INFO OCT-01 EUR-25 ISO-00 LAB-06 L-03 OPR-02 A-01 /043 W

----- 088822

P 301716Z MAY 74

FM AMEMBASSY LONDON

TO SECSTATE WASHDC PRIORITY 0816

INFO AMEMBASSY BONN PRIORITY

UNCLAS SECTION 01 OF 02 LONDON 06744

E.O. 11652: N/A

TAGS: APER, GW, UK

SUBJECT: RIGHT TO STRIKE BY EMPLOYEES OF FEDERAL AND/OR  
STATE-LOCAL GOVERNMENTS OF BRITAIN AND FRG

REF: (1) STATE 112453; (2) LONDON'S A-481

1. THE DEPARTMENT OF EMPLOYMENT, IN AN OFFICIAL DESCRIPTION, DATED DECEMBER 1971 BUT STILL APPLICABLE, CHARACTERIZED THE LEGAL POSITION OF PUBLIC EMPLOYEES IN INDUSTRIAL DISPUTES (AT NATIONAL, STATE OR LOCAL LEVELS) IN THE FOLLOWING WAY:

2. "PUBLIC EMPLOYEES (OTHER THAN POLICE) ARE IN THE SAME LEGAL POSITION AS OTHER WORKERS WITH REGARD TO STRIKE ACTION. THEY CANNOT BE COMPELLED THROUGH THE COURT TO DO ANY WORK OR ATTEND AT ANY PLACE FOR THE PURPOSE OF DOING ANY WORK, NOR ON THE OTHER HAND CAN THEY BE COMPELLED BY THE COURT TO TAKE PART IN A STRIKE. THE CONSPIRACY AND PROTECTION OF PROPERTY ACT, 1875 (SECTION 5) PROVIDES THAT A PERSON WILFULLY AND MALICIOUSLY BREAKING A CONTRACT OF SERVICE, KNOWING THAT THE PROBABLY CONSEQUENCES OF SO DOING WILL BE TO ENDANGER HUMAN LIFE OR CAUSE SERIOUS BODILY INJURY OR EXPOSE VALUABLE PROPERTY TO DESTRUCTION OR SERIOUS INJURY, IS LIABLE TO BE PROSECUTED. MEMBERS OF THE POLICE FORCE ARE IN EFFECT FORBIDDEN TO STRIKE BY THE TERMS OF THE POLICE ACT, 1919. THE CIVIL SERVANT WHO WENT ON STRIKE WOULD BE LIABLE TO DISCIPLINARY ACTION (SEE PARAS 73

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AND 74 OF THE TREASURY HANDBOOK) BUT HE HAS THE SAME

RIGHTS AS OTHER EMPLOYEES TO PROTECTION AGAINST UNFAIR DISMISSAL FOR TAKING PART IN A STRIKE, WITH SOME VERY SLIGHT MODIFICATION. IN GENERAL, THE INDUSTRIAL RELATIONS ACT, 1971, GIVES PUBLIC EMPLOYEES INCLUDING CIVIL SERVANTS THE SAME RIGHTS, PROTECTIONS, LIABILITIES AND OBLIGATIONS AS OTHER EMPLOYEES..

3. "ANY CIVIL SERVANT MAY BE DISMISSED AT ANY TIME BUT THE DISMISSAL OF A PERMANENT "ESTABLISHED" CIVIL SERVANT IS VERY RARE EXCEPT WHEN HE HAS BEEN GUILTY OF MISCONDUCT. A TEMPORARY CIVIL SERVANT WILL NORMALLY BE DISCHARGED WHEN THE WORK FOR WHICH HE WAS ENGAGED HAS BEEN COMPLETED. LOCAL GOVERNMENT EMPLOYEES CAN BE DISMISSED AFTER AN APPROPRIATE PERIOD OF NOTICE DEPENDENT UPON THE TERMS OF THEIR CONTRACT OF EMPLOYMENT. THE DISMISSAL OF PERMANENT EMPLOYEES IS RARE EXCEPT IN CASES OF MISCONDUCT. IN SOME FEW CASES (EG, POLICE CLERKS TO COUNTY COUNCILS AND COUNTY MEDICAL OFFICERS OF HEALTH) LOCAL GOVERNMENT OFFICERS CANNOT BE DISMISSED WITHOUT THE CONSENT OF THE HEAD OF THE APPROPRIATE GOVERNMENT DEPARTMENT." (NOTE: COPIES OF THE TREASURY HANDBOOK, THE POLICE ACT, AND THE INDUSTRIAL RELATIONS ACT 1971, AND OTHER MATERIAL RELATING TO THE POSITION OF PUBLIC EMPLOYEES IN REGARD TO STRIKE ACTION WILL BE TRANSMITTED TO THE DEPARTMENT.)

4. DAVID WINCHESTER, LECTURER IN INDUSTRIAL RELATIONS AT THE LONDON SCHOOL OF ECONOMICS, IN A PAPER, "LABOR RELATIONS IN THE PUBLIC SECTOR" DELIVERED TO THE INTERNATIONAL INDUSTRIAL RELATIONS ASSOCIATION IN LONDON, SEPTEMBER 1973, MAKES THE FOLLOWING COMMENT CONCERNING THE "RIGHT TO STRIKE":

5' 'IN BRITAIN, THERE IS NO CONSTITUTIONAL GUARANTEE OF THE 'RIGHT TO STRIKE' AND IN LAW, NO IMPORTANT DIFFERENCES BETWEEN PUBLIC AND PRIVATE EMPLOYEE RIGHTS OR IMMUNITIES FROM LEGAL ACTION DURING THE COURSE OF STRIKES. THE CRIMINAL LIABILITIES THAT SOME PUBLIC SECTOR WORKERS MAY INCUR - POLICE, POSTMEN AND PUBLIC UTILITY WORKERS - HAVE RARELY BEEN USED. (WINCHESTER UNCLASSIFIED

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HAS EXPLAINED TO US THAT HE IS REFERRING HERE MAINLY TO THE CONSPIRACY AND PROTECTION OF PROPERTY ACT, MENTIONED PREVIOUSLY.) THE 1971 INDUSTRIAL RELATIONS ACT ALTERS THE LEGAL PARAMETERS OF INDUSTRIAL ACTION IN MANY AND COMPLEX WAYS, BUT THE ONE AREA MOST LIKELY TO AFFECT PUBLIC SECTOR STRIKES CONCERNS THE PROVISION OF PROCEDURES THAT THE GOVERNMENT MAY INVOKE DURING STRIKES THAT PRECIPITATE NATIONAL EMERGENCIES. THE 'COOLING OFF'

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ACTION PER-05

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TO SECSTATE WASHDC PRIORITY 0817

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PROCEDURE AND COMPULSORY STRIKE BALLOTS (SIMILAR TO THE US LEGISLATION) WERE USED IN THE RAILWAY DISPUTE LAST YEAR WITHOUT NOTABLE SUCCESS, BUT BY THE NATURE OF THE SERVICES PROVIDED BY MANY PARTS OF THE PUBLIC SECTOR, NATIONAL DISPUTES ARE MORE LIKELY TO GIVE RISE TO 'NATIONAL EMERGENCIES' THAN PRIVATE SECTOR STRIKES." (WINCHESTER IS REFERRING HERE TO THE PROVISIONS OF THE INDUSTRIAL RELATIONS ACT 1971, PART VIII, SECTIONS 138-145). (NOTE: STRICTLY SPEAKING, THE "RIGHT TO STRIKE" DOES NOT EXIST AS A LEGAL TERM; WHAT DOES EXIST ARE LEGAL IMMUNITIES WHICH APPLY TO TRADE UNIONS, EMPLOYEES' ASSOCIATIONS OR INDIVIDUALS ACTING IN CONTEMPLATION OR FURTHERANCE OF A TRADE DISPUTE.)

6. IT SHOULD BE EMPHASIZED THAT THE LEGISLATION REPEALING THE INDUSTRIAL RELATIONS ACT OF 1971 IS NOW BEFORE PARLIAMENT. THIS REPEAL ACT (COPIES OF WHICH WERE TRANSMITTED TO THE DEPARTMENT WITH REPAIR) WOULD RETAIN THE PRESENT IMMUNITIES FROM PENALTIES DUE TO STRIKE ACTION AND IN FACT REINFORCE THEM BY WITHDRAWING LEGAL SANCTIONS AGAINST "SYMPATHETIC ACTIONS" (SECONDARY BOYCOTTS). THE REPEAL BILL ALSO SPECIFICALLY EXCLUDES THE POLICE AND ARMED FORCES.

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